

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1059-MWD-E **TCEQ ID:** RN102077955 **CASE NO.:** 34106
RESPONDENT NAME: City of Seminole

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Seminole WWTP, adjacent to and south of U.S. Highway 180, approximately 1.5 miles east of the intersection of U.S. Highways 180 and 385, Gaines County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 9, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Michael Carter, Mayor, City of Seminole, 302 South Main Street, Seminole, Texas 79360 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: June 20, 2007</p> <p>Date of NOE Relating to this Case: June 28, 2007 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for five-day biochemical oxygen demand ("BOD5") and chlorine residual [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010278001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$4,560</p> <p>Total Deferred: \$912 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$3,648</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p>2) The Order will also require the Respondent to submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010278001 and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, within 60 days after the effective date of this Agreed Order.</p>

Additional ID No(s): TPDES Permit No. WQ0010278001

Attachment A
Docket Number: 2007-1059-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Seminole
Payable Penalty Amount:	Three Thousand Six Hundred Forty-Eight Dollars (\$3,648)
SEP Amount:	Three Thousand Six Hundred Forty-Eight Dollars (\$3,648)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance
Location of SEP:	Gaines County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the Third-Party Recipient shall repair or replace failing water systems or on-site wastewater systems for low income homeowners. The Third-Party Recipient shall use SEP Funds to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. The Third-Party recipient shall use a consistent and documented system for determining eligible participants.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

DATES	Assigned	2-Jul-2007	Screening	3-Jul-2007	EPA Due	
	PCW	5-Jul-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Seminole
Reg. Ent. Ref. No.	RN102077955
Facility/Site Region	7-Midland
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34106	No. of Violations	1
Docket No.	2007-1059-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Jorge Ibarra, P.E.
Multi-Media		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	52% Enhancement	Subtotals 2, 3, & 7	\$1,560
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Notes The Respondent was issued one NOV without the same or similar type of violations and self-reported ten months of effluent violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$167
Approx. Cost of Compliance \$2,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$4,560
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$4,560
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$4,560
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DEFERRAL	20% Reduction	Adjustment	-\$912
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$3,648
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Screening Date 3-Jul-2007

Docket No. 2007-1059-MWD-E

PCW

Respondent City of Seminole

Policy Revision 2 (September 2002)

Case ID No. 34106

PCW Revision May 25, 2007

Reg. Ent. Reference No. RN102077955

Media [Statute] Water Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	10	50%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 52%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent was issued one NOV without the same or similar type of violations and self-reported ten months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 52%

Screening Date 3-Jul-2007		Docket No. 2007-1059-MWD-E		PCW	
Respondent City of Seminole		<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 34106		<small>PCW Revision May 25, 2007</small>			
Reg. Ent. Reference No. RN102077955					
Media [Statute] Water Quality					
Enf. Coordinator Jorge Ibarra, P.E.					
Violation Number		<div style="border: 1px solid black; padding: 2px;">1</div>			
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;"> Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010278001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a) </div>			
Violation Description		<div style="border: 1px solid black; padding: 2px;"> Failed to comply with permit effluent limits. See attached Effluent Limit Violation Table. </div>			
Base Penalty					<div style="border: 1px solid black; padding: 2px;">\$10,000</div>
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	x	Percent <div style="border: 1px solid black; padding: 2px;">10%</div>
Potential	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>		
>> Programmatic Matrix					
Matrix Notes	Falsification				
	Major	Moderate	Minor		
	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px;">0%</div>	
A simplified model was used to evaluate biochemical oxygen demand (5-day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Chlorine residual values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.					
Adjustment					<div style="border: 1px solid black; padding: 2px;">\$9,000</div>
					<div style="border: 1px solid black; padding: 2px;">\$1,000</div>
Violation Events					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">3</div>	Number of violation days <div style="border: 1px solid black; padding: 2px;">154</div>		
mark only one with an x	daily	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>	Violation Base Penalty <div style="border: 1px solid black; padding: 2px;">\$3,000</div>		
	monthly	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	quarterly	x			
	semiannual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	annual	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
	single event	<div style="border: 1px solid black; width: 50px; height: 15px;"></div>			
Three quarterly events are recommended based on the months the permitted limits were exceeded.					
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$167</div>	Violation Final Penalty Total		<div style="border: 1px solid black; padding: 2px;">\$4,560</div>
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; padding: 2px;">\$4,560</div>

Economic Benefit Worksheet

Respondent: City of Seminole
Case ID No. 34106
Reg. Ent. Reference No. RN102077955
Media: Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	1-Jul-2006	1-Mar-2008	1.7	\$167	n/a	\$167

Notes for DELAYED costs

Estimated cost to provide additional oversight and sampling which may have alleviated or prevented the noncompliance. Date Required is the first day of non-compliance, Final Date is the expected compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$167

table rev.

Corresponds to Violation Number:	1
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Permit Limit

[illegible]

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/day
million gallons per day	MGD
total suspended solids	TSS
5-day biochemical oxygen demand	BOD ₅
carbonaceous biochemical oxygen demand	CBOD
ammonia-nitrogen	NH ₃ -N
dissolved oxygen	DO
compliant (no excursions)	c

Compliance History

Customer/Respondent/Owner-Operator: CN600730048 City of Seminole Classification: AVERAGE Rating: 1.63

Regulated Entity: RN102077955 CITY OF SEMINOLE WASTEWATER TREATMENT PLANT Classification: AVERAGE Site Rating: 0.53

ID Number(s): WASTEWATER PERMIT WQ0010278001
WASTEWATER PERMIT TPDES0123315
WASTEWATER PERMIT TX0123315
WASTEWATER LICENSING LICENSE WQ0010278001

Location: Adjacent to and south of U.S. Highway 180, approximately 1.5 miles east of the intersection of U.S. Highway 180 and 385 in Gaines County, Texas Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 07 - MIDLAND

Date Compliance History Prepared: July 03, 2007

Agency Decision Requiring Compliance Enforcement

Compliance Period: July 03, 2002 to July 03, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 07/12/2002 (236346)
- 2 07/12/2002 (236344)
- 3 08/21/2002 (236348)
- 4 09/13/2002 (236350)
- 5 10/21/2002 (236352)
- 6 11/21/2002 (236354)
- 7 12/27/2002 (236356)
- 8 01/15/2003 (236359)
- 9 02/14/2003 (236335)
- 10 03/12/2003 (21984)
- 11 03/13/2003 (236338)
- 12 04/09/2003 (328550)
- 13 05/22/2003 (328552)
- 14 06/20/2003 (328553)
- 15 07/11/2003 (140992)
- 16 07/14/2003 (328555)
- 17 07/14/2003 (328556)
- 18 09/22/2003 (328557)
- 19 10/09/2003 (328558)
- 20 11/14/2003 (328559)

21	02/02/2004	(328560)
22	02/13/2004	(328548)
23	03/19/2004	(259307)
24	03/22/2004	(328549)
25	04/19/2004	(328551)
26	05/14/2004	(367806)
27	06/14/2004	(328554)
28	07/26/2004	(367807)
29	08/24/2004	(367808)
30	09/17/2004	(367809)
31	10/12/2004	(367810)
32	11/12/2004	(390449)
33	12/20/2004	(390450)
34	01/10/2005	(390451)
35	02/15/2005	(427921)
36	03/10/2005	(427922)
37	03/14/2005	(347994)
38	04/11/2005	(427923)
39	05/24/2005	(427924)
40	06/21/2005	(427925)
41	07/20/2005	(427926)
42	07/25/2005	(427927)
43	09/23/2005	(447888)
44	10/21/2005	(493295)
45	11/15/2005	(493296)
46	12/20/2005	(493297)
47	01/18/2006	(493298)
48	02/21/2006	(493293)
49	03/22/2006	(493294)
50	04/24/2006	(506700)
51	05/23/2006	(506701)
52	06/21/2006	(506702)
53	07/10/2006	(528844)
54	09/07/2006	(528845)
55	09/15/2006	(528846)
56	10/12/2006	(552021)
57	11/16/2006	(552022)
58	12/12/2006	(552023)
59	06/28/2007	(564999)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/12/2003 (21984)

Self Report?	NO	Classification	Moderate
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Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Electronic flow measurement device out of 10% error range with manual device (-60%)

Self Report?	NO	Classification	Moderate
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Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Permittee was found to be collecting equal-proportioned aliquots for their composite samples instead of flow-weighting.

Self Report?	NO	Classification	Moderate
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Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Permittee was found to be calculating their effluent loadings incorrectly. This resulted in erroneous data being represented on their DMRs - reporting compliant data when a noncompliant condition existed.

Date: 05/31/2003 (328553)

Self Report?	YES	Classification	Moderate
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Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (328558)

Self Report?	YES	Classification	Moderate
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Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2003	(328559)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2005	(427924)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2005	(493298)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2006	(552022)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2006	(552023)	
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/31/2006		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2006		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2007		
Self Report?	YES	Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]		
Description:	Failure to meet the limit for one or more permit parameter		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SEMINOLE
RN102077955**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1059-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Seminole ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located adjacent to and south of U.S. Highway 180, approximately 1.5 miles east of the intersection of U.S. Highways 180 and 385 in Gaines County, Texas (the "Facility").
2. The City has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about July 3, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand Five Hundred Sixty Dollars (\$4,560) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Nine Hundred Twelve Dollars (\$912) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount

will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Three Thousand Six Hundred Forty-Eight Dollars (\$3,648) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with permit effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010278001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on June 20, 2007, and as indicated in the table below:

EFFLUENT PARAMETER		
Permit Limit		
	BOD5 Daily Average	Chlorine Residual Maximum
Month/Year	30 mg/L	4 mg/L
Jul-06	c	4.7
Oct-06	32.5	c
Nov-06	c	4.8
Dec-06	37	c
Mar-07	c	4.8

mg/L = milligrams per liter

c = compliant

BOD5 = biochemical oxygen demand (5-day)

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Seminole, Docket No. 2007-1059-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Six Hundred Forty-Eight Dollars (\$3,648) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the City shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010278001, as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Midland Regional Office
Texas Commission on Environmental Quality
3300 North A Street, Building 4, Suite 107
Midland, Texas 79705-5404

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

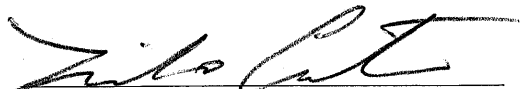
5/21/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

March 24, 2008
Date

Mike Carter

Name (Printed or typed)
Authorized Representative of
City of Seminole

Mayor

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1059-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Seminole
Payable Penalty Amount:	Three Thousand Six Hundred Forty-Eight Dollars (\$3,648)
SEP Amount:	Three Thousand Six Hundred Forty-Eight Dollars (\$3,648)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance
Location of SEP:	Gaines County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the Third-Party Recipient shall repair or replace failing water systems or on-site wastewater systems for low income homeowners. The Third-Party Recipient shall use SEP Funds to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. The Third-Party recipient shall use a consistent and documented system for determining eligible participants.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

